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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,121	02/28/2005	Hiroto Kokubun	1141/72716	6064
23432 7590 05/13/2008 COOPER & DUNHAM, LLP 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER				
BOR, HELENE CATHERINE				
ART UNIT		PAPER NUMBER		
3768				
MAIL DATE		DELIVERY MODE		
05/13/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/501,121

Applicant(s)

KOKUBUN ET AL.

Examiner

HELENE BOR

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 13 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/08/2008 has been entered.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The rejection of Claim 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lutz (US Patent No. 5,832,051) is hereby maintained.
4. The rejection of Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Flohr et al. (US Patent No. 6,381,487 B1) is hereby maintained.

Response to Arguments

5. Applicant's arguments filed 02/08/2008 have been fully considered but they are not persuasive. The Applicant presented the argument that Lutz did not teach the detecting the static cardiac time phase based on the correlation data between the heartbeat information and the static cardiac time phase that are previously determined to each subject. The Examiner respectfully disagrees. Lutz discloses, "determination of the measurements interval ΔM of each cardiac phase per rotation" (Col 5, Line 22-24).

Lutz is not just determining the cycle time of the patient but determines the measurement interval of each of the cardiac phase which is correlated with the trigger signal [based on heartbeat information R-wave] (Col. 4, Line 42-58 & Col. 5, Line 48-53). The Applicant asserts the same argument for Flohr. The Examiner respectfully disagrees. As the Applicant stated on Page 8 of the Remarks, "only those data that were acquired during a resting phase are employed for the image reconstruction". Flohr is looking for the static cardiac time phase [resting phase] and using heartbeat information [mechanical movements of the heart] correlated to the ECG signal {for detecting the resting phase} (col. 4, Line 8-22). The Applicant asserts that Flohr does not teach calculating an integrated value of a CT value and selecting a sample tomographic image with a smaller fluctuation of the integrated value of the CT value. Flohr teaches the summation [integration] of the projections which results in an error criterion [CT value] (Col. 5, Line 17-36). Flohr teaches using the error criterion as a threshold and projections below [smallest fluctuation] are selected and assumed to be registered during the resting phase of the heart (Col. 5, Line 41-44). The Applicant asserted that Flohr does not teach detecting a static time phase with a small amount of motion artifacts in a predetermined portion of the subject based on heartbeat information acquired in association with the projection data and generating the tomographic image by reconstructing projection data corresponding to the detected static time phase. The Examiner respectfully disagrees. The Examiner believes the claim is broad enough to interpret the determining of the resting phase and the static

cardiac time phase as analogous. The Examiner contends that if the claim read "time of the static cardiac phase would be different than the detected resting phase.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELENE BOR whose telephone number is (571)272-2947. The examiner can normally be reached on M-T 8:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. B./
Examiner, Art Unit 3768

/Eric F Winakur/
Primary Examiner, Art Unit 3768